United Nations S/AC.47/2011/1

Security Council

Distr.: General
29 April 2011

Original: English

Security Council Committee established pursuant to resolution 1591 (2005) concerning the Sudan

Note verbale dated 25 April 2011 from the Permanent Mission of Japan to the United Nations addressed to the Chairman of the Committee

The Permanent Mission of Japan to the United Nations presents its compliments to the Chairman of the Security Council Committee established pursuant to resolution 1591 (2005) concerning the Sudan and has the honour to refer to the provisions of resolution 1945 (2010), adopted by the Security Council on 14 October 2010.

The Permanent Mission of Japan has the honour to provide the Chairman with a report on the actions taken by Japan to implement the measures imposed by Council resolutions 1556 (2004) and 1591 (2005), pursuant to resolution 1945 (2010) (see annex).

11-35876 (E) 080611

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Annex to the note verbale dated 25 April 2011 from the Permanent Mission of Japan to the United Nations addressed to the Chairman of the Committee

1. Japan's export control legislation and measures in accordance with paragraphs 7 and 8 of Security Council resolution 1556 (2004) and paragraph 7 of resolution 1591 (2005) (arms embargo)

The Government of Japan has been dealing carefully with arms control in accordance with the three principles on arms exports (hereinafter referred to as "the three principles") and their related policy guidelines in order to avoid any possible aggravation of international conflicts. The three principles have formed Japan's basic policy concerning its arms exports since they were declared at the Diet session in 1967. Arms as referred to in the three principles are defined as goods that are used by military forces and that are directly employed in combat; specifically, the 17 goods listed under item 1 of annexed list 1 of the Export Trade Control Order (see enclosure).

Under the three principles, arms exports to the following countries or regions shall not be permitted:

(a) Communist bloc countries;

(b) Countries subject to arms exports embargo under Security Council resolutions;

(c) Countries involved in or likely to be involved in international conflicts.

At the Diet session in February 1976, the Government of Japan announced the policy implementing guidelines, which outlined that arms exports to other areas not included in the three principles would also be restrained, in conformity with Japan's position as a peace-loving nation. In other words, the collateral policy implementing guidelines declared that the Government of Japan shall not promote "arms" exports, regardless of the destination.

Japan's export control system is based on the Foreign Exchange and Foreign Trade Law (Law No. 228 of 1948) (hereinafter referred to as the "Foreign Exchange Law"), which provides the general legal framework governing Japan's external transactions, as well as the Export Trade Control Order (Executive Order No. 414 of 1949) (for goods) and the Foreign Exchange Order (Executive Order No. 260 of 1980) (for technologies). In accordance with those regulations, the Government of Japan exercises careful control over exports of all items on the lists attached to the orders by means of a licensing requirement.

Based on the Foreign Exchange Law, the Government of Japan controls the export of 17 types of goods and technologies that are described as "subject to control" in the Export Trade Control Order (see enclosure) and the Foreign Exchange Order Attachment List. Goods and technologies described in those lists correspond to the goods and technologies controlled by the four international export control regimes, namely the Wassenaar Arrangement, the Missile Technology Control Regime, the Nuclear Suppliers Group and the Australia Group.

2. Measures in accordance with subparagraph 3 (d) of Security Council resolution 1591 (2005) and resolution 1672 (2006) (travel ban)

The Government of Japan has taken, in accordance with the Immigration Control and Refugee Recognition Act, the actions to prevent the entry into or transit through its territories of all persons designated by Security Council resolution 1672 (2006), pursuant to subparagraph 3 (d) of resolution 1591 (2005).

3. Measures in accordance with subparagraph 3 (e) of Security Council resolution 1591 (2005) and resolution 1672 (2006) (asset freeze)

The Government of Japan has taken, in accordance with the Foreign Exchange Law, the following actions, which are necessary to implement the measures in the relevant paragraphs of the above-mentioned resolutions:

(a) To freeze the funds, other financial assets and economic resources that were on its territories on the date of the adoption of Security Council resolution 1672 (2006), pursuant to subparagraph 3 (d) of resolution 1591 (2005), or at any time thereafter, that are owned or controlled directly or indirectly by the persons designated by Security Council resolution 1672 (2006), pursuant to subparagraph 3 (d) of resolution 1591 (2005), or that are held by entities owned or controlled directly or indirectly by any persons acting on their behalf or at their direction;

(b) To prevent any funds, financial assets or economic resources from being made available by its nationals or by any persons within its territories, to or for the benefit of persons or entities designated by Security Council resolution 1672 (2006), pursuant to subparagraph 3 (e) of resolution 1591 (2005).

Enclosure

Arms and arms production-related equipment listed as item 1 of the annexed list 1 of the Export Trade Control Order

1. Firearms, and cartridges to be used thereof (including those to be used for emitting light or smoke), and accessories and parts thereof.
2. Ammunition (excluding cartridges) and equipment for its dropping or launching, and accessories and parts thereof.
3. Explosives (excluding ammunition) and military fuel.
4. Explosive stabilizers.
5. Directed energy weapons and parts thereof.
6. Kinetic energy weapons (excluding firearms) and equipment for their launching, including parts thereof.
7. Military vehicles and accessories and bridges specially designed for military use thereof, including parts thereof.
8. Military vessels and hulls and accessories thereof, including parts thereof.
9. Military aircraft and accessories and parts thereof.
10. Anti-submarine nets, anti-torpedo nets and buoyant electric cable for sweeping magnetic mines.
11. Armour plates and military helmets, including bullet-proof jackets and parts thereof.
12. Military searchlights and control equipment thereof.
13. Bacterial, chemical and radioactive agents for military use, as well as equipment and parts thereof for the dissemination, protection, detection or identification thereof.

13-2. Chemical mixtures specially formulated for the decontamination of objects contaminated with biological agents and radioactive materials adapted for use in war and chemical warfare agents.

14. Biopolymers for the detection and identification of chemical agents for military use and cultures of cells for the production thereof, as well as biocatalysts for the decontamination and degradation of chemical agents for military use and expression vectors, viruses or cultures of cells containing the genetic information necessary for the production thereof.
15. Equipment and parts thereof for the production or testing of military explosives.
16. Equipment for the production or testing of arms, including parts and accessories thereof.

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Security Council Committee established pursuant to resolution 1591 (2005) concerning the Sudan

Letter dated 17 May 2011 from the United States Mission to the United Nations addressed to the Chairman of the Committee

The Permanent Mission of the United States of America presents its compliments to the Chair of the Security Council Committee established pursuant to resolution 1591 (2005) concerning the Sudan, and has the honour to enclose the report of the United States on the implementation of sanctions requested in Council resolutions 1945 (2010), 1591 (2005) and 1556 (2004) (see annex).

(*Signed*) Joshua **Black**
Adviser

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Annex to the letter dated 17 May 2011 from the United States Mission to the United Nations addressed to the Chairman of the Committee

Report of the United States on the implementation of sanctions imposed by Security Council resolutions 1945 (2010), 1591 (2005) and 1556 (2004)

Travel ban

Under the applicable provisions of the Immigration and Nationality Act, the United States takes the necessary measures to prevent the entry into or transit through the United States territories of individuals designated by the Committee established pursuant to resolution 1591 (2005) concerning the Sudan (hereinafter referred to as "the Committee"), provided that the individuals are not nationals of the United States. To the extent consistent with United States law, travel exemptions will be granted if the Committee determines on a case-by-case basis that such travel is justified on the grounds of humanitarian need, including religious obligation, or if it will further the objectives for the creation of peace and stability in the Sudan and the region, or if the United States is obliged to permit the travel due to the United Nations Headquarters Agreement.

Asset freeze

The United States takes the necessary measures to freeze without delay the funds, other financial assets and economic resources that are within the jurisdiction of the United States, and that are owned or controlled, directly or indirectly, by the individuals or entities designated by the Committee, or by individuals or entities acting on their behalf or at their direction, or by entities owned or controlled by them, as designated by the Committee. Additionally, the United States ensures that any funds, financial assets or economic resources are not made available to or for the benefit of designated individuals and entities by United States nationals or by any individuals or entities within the territory of the United States. The United States may authorize the release of frozen assets in certain compelling circumstances.

The United States implements the asset freeze pursuant to Presidential authorities under the Constitution and the laws of the United States of America, including the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.) (IEEPA), the National Emergencies Act (50 U.S.C. 1601 et seq.) (NEA), section 5 of the United Nations Participation Act, as amended (22 U.S.C. 287c) (UNPA), and section 301 of title 3, United States Code.

Arms embargo

The transfer of United States defence articles and defence services are controlled by Government-to-Government agreements (called Letters of Offer and Acceptance in the Foreign Military Sales (FMS) system) and by export controls for commercial transfers implemented through the Arms Export Control Act (AECA) and the International Traffic in Arms Regulations (ITAR). The AECA and the ITAR are the basis for United States compliance with the arms embargo on Darfur

imposed by resolution 1556 (2004) and expanded by resolutions 1591 (2005) and 1945 (2010).

The United States munitions export control system is designed to deny access to United States-origin defence equipment and technology by adversaries and parties whose interests are inimical to those of the United States. The export control process is closely regulated and excludes the participation of embargoed and other ineligible parties in the United States defence trade.

The United States requires all United States persons who manufacture or export defence articles, or furnish defence services, or United States and foreign persons engaged in arms-brokering, to register with the United States Department of State. Once registered, any export of a defence article, or defence service, or a brokering activity must be authorized through a licence or other authorization by the Department of State. Direct commercial sales are subject to end-use monitoring under the Arms Export Control Act as implemented by the Department of State "Blue Lantern" Program. Arms export control violations, including provision of defence articles and technology to ineligible persons and associated persons, are subject to strict penalties — criminal (including a jail sentence of 10 years and/or a $1 million fine for each violation) and civil (debarment from participation in the United States defence trade and monetary penalties up to $500,000 for each violation).

For FMS transfers, the Letters of Offer and Acceptance require foreign countries to permit end-use monitoring and verification by United States personnel who ensure that defence articles are used, stored and maintained in accordance with United States law. This is done via the Department of Defense "Golden Sentry" Program, which involves in-person inspection of sensitive defence articles in the foreign country.

Both the Blue Lantern and Golden Sentry programs are designed to provide reasonable assurances that the end-users of controlled items use the items for the purpose for which they were provided, refrain from retransferring the items without proper authorization, and provide the items with the appropriate level of security.